

**STATE OF RHODE ISLAND CITY OF EAST PROVIDENCE
COUNTY OF PROVIDENCE ZONING BOARD OF REVIEW**

MINUTES

A meeting of the East Providence Zoning Board of Review was held at 7:00 P.M., on Wednesday, 2 September 2015, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice-Chairman

John Braga

Pier-Mari Toledo

Antonio H. Cunha – ABSENT

Richard Croke, Sr. – 1st Alternate

Gary Pascoa – 2nd Alternate

Edward Pimentel – Zoning Officer / Clerk

Gregory Dias – Assistant City Solicitor

Chairman Saveory announces that it is the policy of the Zoning Board of Review to caution all petitioners that they have the right to counsel before the Board and failure to do so at this time does not constitute sufficient grounds for a change in circumstances under the

eighteen-month repetitive petition clause. All petitioners are also cautioned that if the petition is approved, all construction must be done in compliance with the submitted plan(s), application and testimony presented to the Zoning Board of Review. A change of any sought must obtain the requisite approval of the Zoning Board of Review. All work that deviates from the approval will be ordered halted and promptly removed. Comments will be limited to the petition being heard and no comments will be heard that do not pertain to an item scheduled on tonight's docket. He also notes that it is the policy of the Board that no new agenda item will be heard after 10:30 PM.

Chairman Saveory also notes that the Board welcomes any commentary from the public provided it solely pertains to an item on tonight's docket.

A. Swearing in of the Zoning Officer

Chairman Saveory asks Assistant City Solicitor Dias to swear in the Zoning Officer, Mr. Pimentel.

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory informs the public that Mr. Cunha is absent, and therefore Mr. Croke, 1st Alternate, will be both a participating as well

as voting member on all of tonight's agenda items.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory announces that there are no Minutes to be approved.

IV. ZONING OFFICER'S REPORT

Chairman Saveory announces that there is no report this month.

V. CORRESPONDENCE / DISCUSSION

Chairman Saveory announces that there are neither any correspondence nor items for discussion.

VI. STAFF REPORTS

A. Planning Department Staff Report – 27 August 2015 - Previously Submitted.

B. Fire Department's comments – 24 August 2015 – Previously Submitted.

C. Complaint Report – August 2015 – Previously Submitted.

Chairman Saveory announces that the referenced documents are already rendered part of the official record.

VII. CONTINUED BUSINESS

1. VSH Realty, Inc., and Cumberland Farms, Inc., 2812 Pawtucket Avenue, being Map 309, Block 06, Parcel 007.00, in a Commercial 2 District. (Dimensional Variances - Petition No. 6579)

[NOTE: Full Stenographer's Minutes can be obtained from the City of East Providence Zoning Official.]

RECORDED DECISION

Applicant: VSH Realty, Inc., and Cumberland Farms, Inc.

Owner of Property: VSH Realty, Inc., and Cumberland Farms, Inc.

Subject Premises: 15 Wampanoag Trail

Map: 309 Block: 06 Parcel: 005.00

Zoning District: Conditional Commercial 2 District

[City Council Approval - 21 April 2015 - That the use of the properties be restricted to a convenience store and gas pumps and further, that in the event the properties are not developed into or used as a convenience store and gas pumps, the properties would revert to

their original status as a Residential-3 designation on the City's Official Zoning Map.]

Subject Premises: 9 Wampanoag Trail

Map: 309 Block: 06 Parcel: 006.00

Zoning District: Conditional Commercial 2 District

[City Council Approval - 21 April 2015 - That the use of the properties be restricted to a convenience store and gas pumps and further, that in the event the properties are not developed into or used as a convenience store and gas pumps, the properties would revert to their original status as a Residential-3 designation on the City's Official Zoning Map.]

Subject Premises: 2812 Pawtucket Avenue

Map: 309 Block: 06 Parcel: 007.00

Zoning District: Commercial 2 District

Case Number: 6579

Requested Action: Seek Dimensional Relief, to permit introduction of an expanded retail establishment with fuel dispensing – said proposal having already received conditional Development Plan Review approval and a conditional zone change in regard to Parcel(s) 005.00 and 006.00 (as described above) – referenced dimensional deviations individually described:

A. Dimensional Variance, to permit introduction of the new retail

facility meeting the minimum side-yard setback requirement, pursuant to Section 19-136(b) – Two and nine-tenths (2.90) foot variance, resulting in proposed retail facility overhang being situated approximately two and one-tenth (2.10) feet from the southerly property boundary.

B. Dimensional Variance, to permit the referenced redevelopment without meeting the minimum setback from a religious institution requirement, pursuant to Section 19-188(b) – One-hundred and forty-six (146) foot variance, resulting in the proposed redevelopment being situated approximately fifty-four (54) feet from the stated religious institution situated to the northeast across Wampanoag Trail.

[NOTE: Counsel for the applicant on 4 November 2015, informed the Board that he was now seeking the subject relief purely out of an abundance of caution, considering that it was just learned that the religious institution had ceased operating. Nevertheless, given its past usage and potential future usage as a religious institution, relief was still requested.]

C. Dimensional Variance, to permit the referenced redevelopment, possibly resulting in interference with the proposed trash storage (dumpster) area, pursuant to Section 19-261(b)(4) – Trash storage obstruction variance, said obstruction resulting from placement of an off-street loading space directly north of said trash storage area, as

well as inability to provide on-site access to the southerly side of the trash storage area (access achieved via the adjacent Parcel 008.00).

[NOTE: Counsel for the applicant on 4 November 2015, informed the Board that in order for the referenced standard to be violated there has to be sufficient evidence entered into the record substantiating the presence of a conflict, and in their legal opinion no such evidence had been furnished. However, should the Board conclude otherwise, determining that there is a conflict, then they are requesting the stated relief. The Zoning Board of Review concluded that there was sufficient ground for a conflict after engaging in direct examination of the City of East Providence Zoning Official.]

D. Dimensional Variance, to permit introduction of an off-street parking area that will be improved with deficient landscape buffering, pursuant to Section 19-283(f) – Eight-tenths (0.8) foot variance, a portion of said landscape buffer to be as narrow as four and two-tenths (4.20) feet in overall width.

E. Dimensional Variance, to permit the referenced redevelopment, without provision for sufficient off-street, pursuant to Section 19-284(a)(33) – Nine (9) off-street parking space variance, resulting in the total provision of eighteen (18) off-street parking spaces.

F. Dimensional Variance, to permit introduction of an off-street loading space that may potentially conflict with the proposed trash

storage area, vehicular and/or pedestrian travel, pursuant to Section 19-288 – Off-street loading space obstruction variance, said obstruction resulting from placement of an off-street loading space directly north of the proposed trash storage area and to the immediate east of the proposed retail facility.

[NOTE: Counsel for the applicant on 4 November 2015, informed the Board that in order for the referenced standard to be violated there has to be sufficient evidence entered into the record substantiating the presence of a conflict, and in their legal opinion no such evidence had been furnished. However, should the Board conclude otherwise, determining that there is a conflict, then they are requesting the stated relief. The Zoning Board of Review concluded that there was sufficient ground for a conflict after engaging in direct examination of the City of East Providence Zoning Official.]

G. Dimensional Variance, to permit an off-premises sign, pursuant to Section 19-439(b)(1) – One (1) off-premises sign dimensional variance, said signage to benefit the adjacent Coastway Bank property.

H. Dimensional Variance, to permit prohibited digital signage, pursuant to Section 19-440(b) – One (1) off-premises sign dimensional variance, for purposes of advertising gas prices.

I. Dimensional Variance, to permit installation of pylon signage, resulting in exceeding the maximum signage area per side pursuant

to Section 19-443 'Table 1' – Ten (10) square foot dimensional variance per side, stated pylon sign to be approximately forty (40) square feet in total face area per respective side.

J. Dimensional Variance, to permit installation of pylon signage, resulting in exceeding the maximum signage area permitted per pylon sign pursuant to Section 19-443 'Table 1' – Twenty (20) square foot dimensional variance, stated pylon sign to be approximately eighty (80) square feet in total signage area (inclusive of both sides).

Waiverable Variances – Relief No Longer Required

[NOTE: The following sections of the zoning ordinance were satisfactorily addressed during Development Plan Review, those sections that deviated from the ordinance were properly treated as waivers and formally approved by the Development Plan Review Committee. They are therefore formally withdrawn from consideration. The Zoning Board of Review concluded same and permitted said withdrawal.]

Division 5 'Gasoline Filling Stations' – Specifically Section 19-186 'Requirements Generally', Section '19-187 'Site', and 19-189 'Barriers required for certain locations'. Also, Section 19-454(c).4.c.1 'Buffer Strip.

Zoning Board of Review Members Voting on Application in Question:

Eugene Saveory, Michael Beauparlant, John Braga, Pier-Mari Toledo, and Richard Croke.

Document(s) and other material(s) submitted by the subject applicant
Completed application and supporting project description, outlining
all respective dimensional deviations; Full Comprehensive
Development Plan Review Site Plan Package, consisting of 29-sheets,
and entitled ‘Proposed Cumberland Farms Convenience Store with
Gas – 2812 Pawtucket Avenue and 9 & 15 Wampanoag Tr., East
Providence, Rhode Island’, prepared by Vanasse Hangen Brustlin,
Inc., and dated Latest Issue 23 January 2015; Zoning Board of
Review Site Plan Package, consisting of six-sheets, entitled
‘Cumberland Farms Convenience Store with Gas - 2812 Pawtucket
Ave. (Rt. 103) & 9 & 15 Wampanoag Tr. (Rt. 103 & 114), East
Providence, Rhode Island’, prepared by Vanasse Hangen Brustlin,
Inc., and dated Revised through 2 July 2015 [Said Site Plan Package
being signed and dated by the Chairman of the Zoning Board of
Review – Eugene Saveory, 11/4/2015]; Applicant’s Planners Report
entitled ‘Evaluation of Consistency with the East Providence
Comprehensive Plan for Cumberland Farms’, prepared by Pamela M.
Sherrill, AICP, and dated 11 December 2014; Chart entitled ‘Previous
Approvals’, and designated Exhibit No. 1; Listing of provided Buffer
Amenities entitled ‘Buffer’, and designated Exhibit No. 2; Listing of
all requisite variances, consisting of three-sheets, entitled ‘Minor
Variances’, ‘Trash Storage and Loading Variances’, and ‘Signage

Variances’, respectively, and designated Exhibit No. 3; Listing of variances no longer required, due to being waived by the Development Plan Review Committee, and potentially not required due to possible non-conflict, consisting of a single-sheet, and designated Exhibit ‘A’, at the 4 November 2015, Zoning Board of Review hearing; Listing of all requisite variances, consisting of three-sheets, entitled ‘Signage Variances’, ‘Minor Variances’, and ‘Potential: If the Zoning Board Finds that Trash Storage or Off Street Loading Conflict with Pedestrian or Vehicular Movement, Then:’, respectively, and designated Exhibit B, at the 4 November 2015, Zoning Board of Review hearing; Packet of Information, consisting of a letter to the attention of the Zoning Board of Review from Attorney Dylan Conley (single-sheet), listing of buffer amenities (single-sheet), and colored renderings illustrating pre and post development conditions (three-sheets), and designated Exhibit C, at the 4 November 2015, Zoning Board of Review hearing; 200-Foot Radius Map; Abutters List; and all written and recorded minutes of the 4 March 2015, 1 April 2015, 6 May 2015, 10 June 2015, 15 July 2015, 5 August 2015, 12 August 2015, 2 September 2015, 7 October 2015, and 4 November 2015, Zoning Board of Review Meeting(s) – NOTE: Many of the referenced hearings were purely for rescheduling purposes.

Document(s) and other Material(s) submitted by the City of East Providence

Development Plan Review – Notice of Decision No. 2015-01-DPR,

dated 3 August 2015, and Recorded in Book 7, Pages 259 through 261, inclusive; Planning Department Memorandum, consisting of five-sheets, and dated 27 February 2015; Planning Department Memorandum, consisting of five-sheets, and dated 28 July 2015.

Document(s) and other Material(s) submitted by Project Opponent(s)
Letter forwarded to the attention of the Zoning Board of Review from Attorney Sleprow, dated 1 October 2015; Letter prepared by Stephen T. Long, of Marsh & Long Surveying, Inc., dated 2 November 2015, and designated Opponent's Exhibit 1a, at the 4 November 2015, Zoning Board of Review hearing [NOTE: Received for 'Informational Purposes Only']; Class I Surveyed Site Plan entitled East Providence, RI, Plan of Land – Prepared for Jorge M. & Jamie G. Claudino, Sr. – Class I Survey of Map 309, Block 6, Lot 4 – Wampanoag Trail Lilac Street', prepared by Marsh & Long Surveying, Inc., dated 17 September 2015, and designated Opponent's Exhibit 1b, at the 4 November 2015, Zoning Board of Review hearing [NOTE: Received for 'Informational Purposes Only']; Real Estate Report entitled 'Comparative Market Analysis – Prepared for Jorge and Jamie Claudino', prepared by Maria Correia, dated 31 August 2015, and designated Opponent's Exhibit 1c, at the 4 November 2015, Zoning Board of Review hearing [NOTE: Received for 'Informational Purposes Only'].

Document(s) and other Material(s) submitted by Project Proponent(s)
Kent Height's Neighborhood Association – Literature and Petition, designated Proponent's Exhibit No. 1.

Ms. Toledo hereby renders a Motion to Approve the above-described relief in accordance with the submitted application, exhibits and testimony, subject to the following:

- 1. Introduction of all eighteen (18) items outlined in the exhibit entitled 'Buffer Amenities', otherwise designated Exhibit C, submitted at the 4 November 2015, Zoning Board of Review hearing.**
- 2. Petitioner(s) obtaining any, and all, necessary permits.**
- 3. Compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.**

Stated relief has been granted by the Zoning Board of Review as the application has entered evidence to the satisfaction of "Section 19-47 Application process", "Section 19-45(a)(1-4) Variances – Findings required", and "Section 19-45(b)(2) Additional Standards".

The Zoning Board of Review, after reviewing all submitted documentation, exhibits and other materials submitted in regard to the subject application and receiving testimony at several hearings, hereby concludes in a three (3) to two (2) vote to approve the subject proposal – failure to garner the minimum concurring vote of four (4) members pursuant to Section 19-37(f) 'Organization' of the City of East Providence Zoning Ordinance, results in a denial of the subject petition.

The Board Members voting in favor of the Motion to Approve (Voting Aye) hereby issue the following Findings of Fact – said Members to include Chairman Saveory, Mr. Beauparlant, and Ms. Toledo:

1. The granting of the requested dimensional variances will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based, and that failure to approve would result in hardship amounting to more than a mere inconvenience.

2. The Board Members in question further concluded that the principal concern has always been adequate buffer protection for the adjacent property owner, and it is now their opinion that sufficient measures are proposed, as evidenced by the listing of ‘Buffer Amenities’ – Condition of Approval No. 1 – to ensure that said property owner will not realize any negative impact from the subject redevelopment proposal.

3. Concurs with the applicant’s determination that there is sufficient evidence of the presence of hardship, as substantiated by the applicant’s presentation and submitted exhibits. Were one to follow the logical zoning boundary line, it is proper for commercial usage. The oddly configured commercial zoning boundary is in error, and including the adjacent residentially improved properties within the commercial designation is proper. This factor alone results in the presence of hardship, a condition that clearly was not the result of any prior action of the subject applicant.

4. Introduction of a revitalized commercial entity and overall property will in fact contribute, and not negatively impact, the character of the surrounding neighborhood. The subject property does serve as a gateway commercial entity in the respective area of the City, and therefore appearance and usage are important factors that should be considered – factors that further the goals and objectives of the City’s Comprehensive Plan. The submitted site design and architectural renderings reflect the vast improvements, and the manner in which it will serve as a positive contributing gateway entity.

5. In regard to seeking the least relief necessary, they believe that it more than satisfies the requisite burden. Regarding the 200-foot separation from a religious institution – there is minimally a 146-foot to the property boundary, and even far greater distance to the actual operation (or fuel pumps), which is the true consideration. Regarding deficient off-street parking, the spaces physically located at the individual pumps are not technically accounted for. Many of the customers visiting the premises will both obtain fuel as well as use the retail services, and therefore in reality there is more than sufficient provision of off-street parking. The signage relief, as has been testified to, has become industry standard – reflected throughout many communities, including the City of East Providence, and therefore is both reasonable and acceptable. And finally, in regard to minimal reduction of landscape buffer – the reduction is not only extremely minor, but also only represents a small portion of the

overall buffered landscaping to be introduced.

6. Failing to properly ‘commercially’ zone the entire corner from the outset also contributes to the present dilemma. It has precluded the subject corner and general neighborhood from redeveloping in an appropriate manner, and causing the present conflict.

The Board Members voting contrary to the Motion to Approve (Voting Nay) hereby issue the following Findings of Fact – said Members to include Mr. Braga and Mr. Croke:

1. There has not been sufficient evidence entered into the record to document the presence of hardship amounting to more than a mere inconvenience.

2. The applicant’s desire to realize a facility in the magnitude presented (size of facility) is the basis for all of the documented dimensional deviations.

3. In regard to both the trash storage area and off-street loading area, it is their opinion that there are associated safety concerns.

4. The dimensional relief sought does not result from any associated unique property characteristics. There appears to be more than sufficient land area to accommodate a smaller facility (building). Merely reducing overall facility (building) will negate the need for many of the documented dimensional deviations.

5. Approving the subject petition will negatively alter the general character of the surrounding area. It will most assuredly negatively impact the character of the immediate neighborhood, in particular the direct abutter (The Claudinos), whose property would clearly be negatively altered, and they believe that that is all that is required to conclude that the subject petition fails to meet the requisite dimensional burden.

6. Finally, the scope of the project is much too large for the subject property, and therefore this is clearly not the least relief necessary.

7. The applicant's personal actions directly result in all of the requisite dimensional deviations. They must have had prior knowledge of the issues associated with the property, including long-term residential usage on the abutting properties. Finally, all property owners should have right to full enjoyment of their property, especially someone who has been surrounded by residential usage all of their lives, and the subject proposal will deter from said enjoyment.

2A. Petition No. 6595: Kevin Broccoli, seeks a Special Use Permit, to permit construction of an addition onto a pre-existing three-unit residence (said residence to be voluntarily reduced to two-units), otherwise, defined as an intensification of a non-conforming land use, pursuant to Section 19-413 'Alteration of Nonconforming, for property located at 54 – 56 Hazard Avenue, being Map 308, Block 16, Parcel

023.00, and located within a Residential 3 District.

[NOTE: The subject property is presently improved with a pre-existing three-unit apartment building, as evidenced by the prepared Certificate of Zoning, dated 27 May 2015. However, it was the proposal of the referenced applicant / property owner, that if successful in obtaining approval, he would be willing to reduce the three (3) units to a two-unit dwelling with whatever conditions the Board sees fit. Said approval was granted – conditions of approval described below. The applicant / property owner stated on the record that he fully understood that once the three-unit was extinguished, it could not be reintroduced.]

Attorney Martin P. Sleprow with law offices at 1481 Wampanoag Trail, East Providence, RI, informs the Board that he represents the subject petitioner.

Arnold Broccoli, 96 Main Street, East Providence, RI, subject petitioner, is properly sworn in.

Zoning Officer informs the Board that he had inadvertently assumed that all floor-plans had been provided. This is vitally important because the applicant is seeking permission to expand, and in so doing will be reducing the three-units to two-units. Therefore, if the Board sees fit to approve, he would recommend that floor-plans for all floors and all units be provided illustrating existing conditions, and the manner in which the units will be reduced (integrated) such

that there will only be two (2) units remaining. Also, that all utilities associated with a three-unit be extinguished, solely supporting a two-unit residence.

Attorney Sleprow informs the Board that his client is agreeable to all conditions just suggested by the Zoning Officer. He then informs the Board that Arnold is present tonight on behalf of his son Kevin who is relocating from North Carolina to East Providence. The father is not only representing his son, but will be the first-floor occupant. The three-unit residence has been present since minimally the 1930s. The objective is to reduce the overall density to two-units. Kevin and his family will occupy the second and third-floors, and his parents will occupy the first-floor. The lower, first-floor is improved solely with one-bedroom, and thus the reason for the addition. The addition does not necessitate dimensional relief.

Mr. Broccoli provides the following information in response to questions from legal counsel.

Mr. Broccoli informs the Board that he fully understands that once the third-unit is extinguished it may not be reestablished. They need the addition due to the fact that his father-in-law also resides with them, and he is quite ill requiring special living accommodations. They need both a second bedroom and larger bathroom on the first-floor to accommodate his needs.

Attorney Sleprow notes that the addition is towards the rear, and therefore limited visibility. It will also be constructed in-line with the existing structure. He also notes that the Planning Department has supported the subject proposal.

Chairman Saveory queries the Board, commencing with Ms. Toledo.

Ms. Toledo inquires if the Board will have a chance to review the revised floor plans. Zoning Officer responds that that is up to the Board. Mr. Sleprow responds that it should not hold up the process, because it will most assuredly reflect the elimination of a unit and merging of the second and third floors into an individual unit.

Ms. Toledo inquires as to the present layout of the third-floor. Mr. Broccoli responds that the third-floor kitchen-unit will be entirely extinguished, and all other improvements maintained.

Ms. Toledo inquires as to how the second and third floors will be merged? Mr. Broccoli responds that they will be rendered free-flowing, whereas they are presently physically separated.

Ms. Toledo inquires as to the presence of bathrooms? Mr. Broccoli responds that the upper-unit will have two (2) full bathrooms, and the first-floor will have two (2) full bathrooms should the addition be approved.

Ms. Toledo inquires as to the proposed addition. Mr. Broccoli responds that it will be two-stories in height and the second-floor will be an enclosed porch.

Mr. Braga inquires if access to the addition will be solely from the first-floor. Mr. Broccoli responds that there will also be stairs to the second-floor, considering it is one large family and they will be living in an integrated manner.

Mr. Croke inquires if the petitioner has spoken with his neighbors? Mr. Broccoli responds in the affirmative, noting that he spoke with the neighbors to either side given their proximity to the addition. The rear neighbor is situated some distance.

Mr. Croke notes for the record that the addition does appear to be well-screened from the roadway, and therefore does not have any objection.

Mr. Pascoa notes for the record that he does not have any questions and/or comments.

Mr. Beauparlant inquires as to the overall height of the proposed addition? Attorney Sleprow responds that the floor-plans do not document the measurement. Mr. Broccoli responds that it will be approximately 20-feet in overall height.

Mr. Beauparlant inquires if the second-floor will consist of an open

deck? Attorney Sleprow responds that it will be an enclosed porch.

Mr. Beauparlant inquires if the enclosed porch will be heated? Mr. Broccoli responds in the negative.

Mr. Beauparlant inquires about the purpose for the large concrete slab between the house and garage. Mr. Broccoli responds that it was always there and does not know why it was installed.

Mr. Beauparlant notes the presence of four (4) electrical meters, assuming that one is a house meter. Attorney Sleprow responds that that will be eliminated as well.

Mr. Braga asks for specifics on the so-called porch, and the manner in which it will be enclosed? Mr. Broccoli responds that it will be enclosed with windows, but no heat added. It will be wide open, less the presence of furniture.

Chairman Saveory inquires as to what will be physically located on the other side of the enclosed porch? Mr. Broccoli responds that it is a dining room.

Chairman Saveory inquires if the porch will be enclosed with solid windows or screened windows? Zoning Officer responds that it is up to the Board on what restrictions they wish to impose. If this were a pre-existing screened porch, they are able to convert to true living

space as a matter-of-right. However, given that this fails to comply with the side-yard setback, and needs the permission of the Board, they have the right to restrict usage.

After some discussion, it is decided that the porch will be restricted to a three (3) season room, and that no heat and/or air conditioning will ever be installed. They also mandate the removal of all utilities associated with the third-unit – utilities solely serving a two-unit residence.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Ms. Toledo, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

- 1. That the use is compatible with neighboring land uses.**
- 2. The use does not create a nuisance in the neighborhood.**
- 3. That the use does not hinder the future development of the City.**

4. That the use conforms to all applicable sections of the special use requested.

5. That the use is in conformance with the purpose and intent of the East Providence Comprehensive Plan and applicable standards of this Chapter.

Ms. Toledo moves that the special use permit be Granted subject to the petitioner fulfilling the following conditions:

1. Submission of floor plans for each respective floor, including the basement. Said plans shall reflect existing conditions as well as post development condition – pre and post construction. The plans shall clearly identify how the third residential unit is being extinguished, and the manner in which the second and third floors are being merged into an individual residential unit.

2. All utilities associated with the third unit shall be extinguished, including heating and electricity – inclusive of the removal of the respective meters. Any utility previously associated with the third-unit, and independent of the other two-units, shall be physically tied into the second residential unit.

3. The proposed second-floor porch area shall never be improved with any utility, other than electricity. The stated electricity shall not

be used for either heating and/or cooling purposes. Said porch area shall never be merged or become part of the physical living area – must be maintained as a three-season room.

4. Petitioner(s) obtaining any, and all, necessary permits.

5. Compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. Broccoli if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Broccoli responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by both Mr. Beauparlant and Mr. Croke.

Roll Call Vote:

Ms. Toledo - Aye

Mr. Croke - Aye

Mr. Beauparlant - Aye The reduction to two-units will render the property more-so

Consistent with the surrounding character. Also, the

proposed addition will be well-screened, thereby averting any negative visual impact.

Mr. Braga - Aye Concur's with Mr. Beauparlant's comments.

Chairman Saveory - Aye The relief sought is quite minor and will improve the overall image of the neighborhood.

Special Use Permit unanimously granted, subject to the aforementioned condition(s).

2B. Petition No. 6595: Kevin Broccoli, seeks Dimensional Relief, to permit construction of an addition onto a pre-existing two-unit residence, without complying with certain dimensional criteria as described below, for property located at 54 – 56 Hazard Avenue, being Map 308, Block 16, Parcel 023.00, and located within a Residential 3 District.

A. Dimensional Variance, to permit the referenced addition, without complying with the requisite side-yard setback requirement pursuant to Section 19-145 – Nine and one-half (9.5) foot variance, resulting in the referenced addition being situated within approximately five and one-half (5.5) feet of the westerly (side) property boundary.

B. Dimensional Variance, to permit retention of the referenced addition, resulting in exceeding the maximum impervious lot coverage requirement pursuant to Section 19-145 – Fourteen (14.00%)

percent variance, resulting in the subject property being covered approximately fifty-nine (59%) percent with total impervious surface, inclusive of all structures.

[NOTE: The subject property is presently improved with a pre-existing three-unit apartment building, as evidenced by the prepared Certificate of Zoning, dated 27 May 2015. However, it was the proposal of the referenced applicant / property owner, that if successful in obtaining approval, he would be willing to reduce the three (3) units to a two-unit dwelling with whatever conditions the Board sees fit. Said approval was granted – conditions of approval described below. The applicant / property owner stated on the record that he fully understood that once the three-unit was extinguished, it could not be reintroduced.]

Attorney Martin P. Sleprow with law offices at 1481 Wampanoag Trail, East Providence, RI, informs the Board that he represents the subject petitioner.

Arnold Broccoli, 96 Main Street, East Providence, RI, subject petitioner, is properly sworn in.

[NOTE: For specific testimony, refer above under Petition No. 6594.]

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none,

Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Ms.Toledo, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

- 1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).**
- 2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- 3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.**
- 4. That the relief to be granted is the least relief necessary.**

Ms. Toledo hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Ms. Toledo moves that the dimensional variance be Granted subject to the petitioner fulfilling the following conditions:

1. Submission of floor plans for each respective floor, including the basement. Said plans shall reflect existing conditions as well as post development condition – pre and post construction. The plans shall clearly identify how the third residential unit is being extinguished, and the manner in which the second and third floors are being merged into an individual residential unit.

2. All utilities associated with the third unit shall be extinguished, including heating and electricity – inclusive of the removal of the respective meters. Any utility previously associated with the third-unit, and independent of the other two-units, shall be physically tied into the second residential unit.

3. The proposed second-floor porch area shall never be improved with any utility, other than electricity. The stated electricity shall not

be used for either heating and/or cooling purposes. Said porch area shall never be merged or become part of the physical living area – must be maintained as a three-season room.

4. Petitioner(s) obtaining any, and all, necessary permits.

5. Compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. Broccoli if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review, said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Broccoli responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by both Mr. Beauparlant and Mr. Croke.

Roll Call Vote:

Ms. Toledo - Aye

Mr. Croke - Aye

Mr. Beauparlant - Aye The hardship results from the pre-existing placement of the

Subject structure – being already situated within the requisite

side-yard and the proposed addition will be constructed in-line with said structure. The dimensional non-conformity is pre-existing and was not the result of any prior action.

Mr. Braga - Aye

Chairman Saveory - Aye

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

3. Petition No. 6597: James R. Gorniewicz, seeks a Use Variance, to permit retention of an illegal two-unit residential dwelling, said two-unit being prohibited within the Residential 4 District for failing to comply with the minimum lot density requirement pursuant to Section 19-98 'Schedule of Use Regulations', for property located at 76 Beach Point Drive, being Map 513, Block 59, Parcel 004.00, and located within a Residential 4 District.

James R. Gorniewicz, 76 Beach Point Drive, East Providence, RI, subject petitioner, is properly sworn in.

Mr. Gorniewicz requests a continuance so that he can gather more information to present to the Board.

Motion by Mr. Croke to continue the subject petition to 7 October 2015. The motion is Seconded by Ms. Toledo, and Unanimously approved.

4. Petition No. 6598: AAA Northeast, seeks a Special Use Permit, to engage in 'open storage' in association with the redevelopment of the subject property for a variety of permissible land uses, pursuant to Section 19-98 'Schedule of Use Regulations' and Section 19-175 'Open Storage', for property located at 10 River Road, being Map 710, Block 03, Parcel 001.00, and located within an Industrial 2 District.

[NOTE: During the subject hearing, the Board permitted the expansion of the illustrated 'open storage' area subject to certain conditions of approval – as documented below – and therefore the submitted approved site plan reflects only a portion of the approved open storage.]

Christine Engustian, with law offices at 1 Grove Avenue, East Providence, RI, informs the Board that she represents the subject petitioner.

Attorney Engustian describes the subject property to the Board, excerpting information from both submitted site plan and zoning application. She notes that it was previously improved with an industrial boiler operation. The surrounding neighborhood is comprised with a mixture of retail and professional office uses, as well as open storage – storage of school buses across Wampanoag Trail. The have already received Development Plan Review approval as well as signage relief from the Board. The existing facility will be

entirely rehabbed to accommodate a AAA branch office, warehousing, and the repair of company vehicles and trucks. All of these operations will be conducted to the interior of the facility. The submitted plan illustrates a double row of 23-spaces, or total of 46-spaces, to the south of the facility, all for the open storage of company vehicles and trucks – which is permitted by special use permit. A use deemed permitted by special use permit, has already been defined as a permitted land use provided it fulfills the requisite special use permit standards. The storage will be solely an accessory use, and be used for the storage of company and/or member vehicles. The petitioner engaged a professional planner who prepared a report addressing the character of the neighborhood, consistency with the Comprehensive Plan, and addressing the requisite special use permit standards. Also, the Planning Department staff report concluded that all standards have been satisfactorily addressed.

Lloyd Albert, 133 Camden Road, Narragansett, RI, AAA Senior Vice-President, is properly sworn in.

Mr. Albert provides the following information in response to questions from legal counsel.

Mr. Albert informs the Board that he has been employed with AAA for over 20-years and in the position of Senior Vice-President for the past eight-years. He is quite familiar with the subject property,

considering that one of his duties is handling all new real estate transactions for AAA. He is not only familiar with the site, but also the proposed redevelopment plans – having been involved in the DPR process. The defined storage will be limited to the area defined for such on the submitted site plan. The types of vehicles to be stored include pick-up trucks, towing trucks and flat-bed trucks. The overall height of the referenced trucks does not exceed seven-feet, one-inch. The vehicles are securely locked when not in use. They took photographs of the subject property prior to purchase, including those of the area specified for open storage. The photographs not only illustrate on-going open storage, but actually storage of what would more likely be defined as junked or trashed materials – scattered boilers and other scrap metal items. Also, the photographs illustrate the deplorable condition of the overall parking area throughout the property. This too shall be repaired and beautified pursuant to the approved DPR submission.

Attorney Engustian requests that the subject six (6) photographs be accepted as a formal exhibit.

Motion by Ms. Toledo to accept the submitted six (6) photographs, designated Exhibit No. '1', and render them a full exhibit. The motion is Seconded by Mr. Beauparlant, and Unanimously approved.

Chairman Saveory queries the Board, commencing with Ms. Toledo.

Ms. Toledo notes for the record that based upon the submitted materials and furnished testimony, she has no personal objections.

Mr. Croke inquires if the property had attained any grand-fathered rights to exterior 'open storage', or did they simply receive a variance? Attorney Engustian responds that there is no prior zoning history. Mr. Croke inquires if perhaps they simply starting operating without any valid permission. Zoning Officer responds that he is neither familiar with the history of the property, or when, and if, they attained any grand-fathered rights. The open storage area in question is rather secluded, and without receipt of a formal complaint, there would be no reason for investigating or discovering any storage violation – either from a zoning and/or minimum housing perspective. He would also note that interpreting the storage of the items in question is somewhat grey. This could easily be interpreted as mere off-street parking, and thus permitted as a matter-of-right. However, there is always the 'slippery-slope' concern when allowing some resources to be stored outside, and then precluding other resources. For example, when Valley Towing was so-called storing vehicles. The City has taken a rather strict stance since realizing problems with those types of operations. What is clear is that the proposed business is a change of use, albeit permitted. It could very well be that some aspect of the exterior storage was illegal, however this will now address that by legally documenting open storage use and extent of said use.

Mr. Croke notes that he personally believes that the Maylor business has been in operation since the 1950s. Zoning Officer responds that that would have rendered the business as pre-existing. As for the open storage component, he cannot render any determination as to its appropriateness.

Mr. Beauparlant notes for the record that he does not have any personal objections.

Mr. Braga asks the Zoning Officer if it would be possible to limit 'open storage' solely to the described vehicles, thereby imposing said limitation in perpetuity regardless of ownership and/or business operation. Zoning Officer responds in the affirmative, noting that they can limit both type and intensity of said 'open storage'.

Zoning Officer then recommends limiting the open-storage area to a certain size, rather than a certain number of vehicle stalls. This would not only render it easier for enforcement purposes – easier to observe that the magnitude of an area has been exceeded rather than having to physically count number of vehicles – but also, provide some flexibility to the business owner for storage purposes. If the area in question is reasonable for storage, and it is both visually obscured and neatly maintained, why not allow a greater number of vehicle storage, should the need arise. Attorney Engustian responds that that would be quite preferred from a business perspective, and finds it to be a very reasonable means of assuring open storage

compliance.

The Board proceeds to discuss this recommendation with Attorney Engustian, and decides to limit 'Open Storage' in the following manner:

1. 'Open Storage' – Limited to that area situated south of the existing facility.

2. Stated 'Open Storage' shall be conducted (stored) in an organized fashion, and not haphazardly.

3. Stated 'Open Storage' area shall not interfere with mandatory off-street parking, off-street loading, or trash storage.

Mr. Croke inquires if this will be a 24-hour operation? Mr. Albert responds that there is no over-night activity, other than in an emergency to obtain a vehicle.

Mr. Croke then inquires as to what emergency procedures will exist to protect the open storage assets? Mr. Albert responds that in addition to securing the vehicles, there are alarms and 24-hour security cameras.

Chairman Saveory inquires if there is anyone else present who would like to speak in favor of the subject petition. Hearing and seeing

none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Ms. Toledo, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. That the use is compatible with neighboring land uses.
2. The use does not create a nuisance in the neighborhood.
3. That the use does not hinder the future development of the City.
4. That the use conforms to all applicable sections of the special use requested.
5. That the use is in conformance with the purpose and intent of the East Providence Comprehensive Plan and applicable standards of this Chapter.

Ms. Toledo moves that the special use permit be Granted subject to the petitioner fulfilling the

1. 'Open Storage' – Limited to that area situated south of the existing

facility.

2. Stated 'Open Storage' shall be conducted (stored) in an organized fashion, and not haphazardly.

3. Stated 'Open Storage' area shall not interfere with mandatory off-street parking, off-street loading, or trash storage.

4. Petitioner(s) obtaining any, and all, necessary permits.

5. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. Albert if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review, said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Albert responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by both Mr. Braga and Mr. Beauparlant.

The motion is Seconded by both Mr. Beauparlant and Mr. Croke.

Roll Call Vote:

Ms. Toledo - Aye

Mr. Croke - Aye Vast improvement over existing conditions.

Mr. Beauparlant - Aye The 'open storage' of company vehicles is quite

compatible with the character of the surrounding neighborhood. It will in fact assist in the future development of the surrounding neighborhood.

Mr. Braga - Aye

Chairman Saveory - Aye

Special use permit unanimously granted, subject to the aforementioned condition(s).

IX. PROCEDURES

Chairman Saveory announces that there are no procedures to be discussed.

X. ANNOUNCEMENTS

Chairman Saveory announces that the next meeting of the Zoning Board of Review is scheduled for Wednesday, 7 October 2015, at 7:00 PM, in the City of East Providence Council Chambers, City Hall, East

Providence, RI.

XI. ADJOURNMENT

Motion to adjourn by Ms. Toledo. The motion is Seconded by Mr. Beauparlant and Unanimously voted to adjourn. Meeting is adjourned at 11:00 P.M.

Edward Pimentel, AICP

Zoning Officer / Clerk

Secretary